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NO. 250 P. 12

Attorney Docket No. 1033-LB1011

**REMARKS**

This amendment is in response to the Office Action of December 5, 2005 (the "Office Action"). Claim 26 is presently amended.

**1. Claims 31, 32 and 48-53 Are Statutory Subject Matter under 35 U.S.C. § 101**

The Examiner has rejected claims 31, 32 and 48-53 under 35 U.S.C. § 101 as directed to non-statutory subject matter at page 2 of the Office Action. Applicants respectfully traverse the rejection.

Applicants direct the Examiner's attention to Annex IV of the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, published in the OG Notices of 22 November 2005, and available at

<http://www.uspto.gov/web/offices/com/sol/og/2005/week47/patgupa.html>.

In particular, the first paragraph of section (a) of Annex IV of the Interim Guidelines states:

"[A] claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory."

The second paragraph of section (a) of Annex IV of the Interim Guidelines states:

"[A] claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035."

Applicants note that each of claims 31 and 48 recite a computer-readable medium having computer-readable data to initiate completion of a VoIP call and to direct delivery of information to a telephonic device in a format that allows a telephonic device to output a ring tone as an indication of an incoming call. Therefore, claims 31 and 48 are statutory subject matter. In addition, claim 32 recites the computer-readable medium of claim 31 having additional computer-readable data, and is therefore also statutory subject matter. Similarly, each of claims 49-53 recite the computer-readable medium of claim 48 and present one or more additional

features of the computer-readable data of claim 48, and are therefore also statutory subject matter.

**2. Claims 1-53 Are Not Anticipated By Koser et al.**

The Examiner has rejected claims 1-53 under 35 U.S.C. § 102 (e) as being anticipated by Koser et al. (US 2004/0032946 A1, hereinafter "Koser") at pages 3-12 of the Office Action. Applicants respectfully traverse the rejection.

Koser is directed to a system that enables a subscriber to associate a ring-tone media selection to a calling number (Koser, Abstract). Koser discloses a Calling Party 20 making a call to a FlexRing subscriber (Koser, paragraph 0117). A FlexRing server 55 looks up ring-tone information the FlexRing subscriber has associated with the Calling Party 20 in a FlexRing Database 56 (Koser, paragraph 0117). The FlexRing Server 55 informs the subscriber's CPE 25 that it has an incoming call from the Calling Party 20 and streams the selected ring-tone to the subscriber's CPE 25 (Koser, paragraph 0118). The CPE 25 disables normal ringing functions and plays the stream as it is received from the FlexRing Server 55. (Koser, paragraph 0118).

Koser thus teaches that a party receiving a call associates a ring-tone with the calling party. In addition, Koser teaches that the ring-tone played at the called party's CPE is selected by the called party and streamed to the called party's CPE by the FlexRing Server. Koser does not disclose receiving custom ring information from a calling party, the custom ring information representing a desired ring tone to be played to the called party, as recited in claim 1. Claim 1 is therefore allowable. In addition, claims 2-17 are also allowable at least by virtue of their dependency from claim 1.

Koser also does not disclose a network node operable to deliver packetized information representing a calling party selected ring tone to a called party, as recited in claim 18. In contrast, Koser teaches streaming a ring-tone selected by the called party. (Koser, paragraphs 0017-0118). Claim 18 is therefore allowable. In addition, claims 19-25 are also allowable at least by virtue of their dependency from claim 18.

Koser does not disclose an output engine operable to initiate communication of ring tone information to a called party such that a telephonic device of the called party outputs the select ring tone to indicate the call, wherein the select ring tone is selected by a calling party, as recited

in claim 26. Claim 26 is therefore allowable. In addition, claims 27-30 are also allowable at least by virtue of their dependency from claim 26.

Koser does not disclose a computer-readable medium having computer-readable data to direct delivery of the information to a telephonic device of a called party in a format that allows the telephonic device to output the calling party selected ring tone as an indication of an incoming call, as recited in claim 31. Claim 31 is therefore allowable. In addition, claim 32 is also allowable at least by virtue of its dependency from claim 31.

Koser does not disclose receiving first custom ring information from a calling party of the call, the first custom ring information representing a desired ring tone to be played to the called party, as recited in claim 33. In contrast, Koser discloses receiving a ring-tone that is determined by the called party and that is streamed from a FlexRing Server to the called party's CPE. (Koser, paragraphs 0117-0118). Claim 33 is therefore allowable. In addition, claims 34-42 are also allowable at least by virtue of their dependency from claim 33.

Koser does not disclose a memory storing ring tone information representing the select ring tone and including an advertisement, as recited in claim 43. Claim 43 is therefore allowable. In addition, claims 44-47 are also allowable at least by virtue of their dependency from claim 43.

Koser does not disclose directing delivery of information that allows a telephonic device to output a calling party selected ring tone as an indication of an incoming call, as recited in claim 48. Claim 48 is therefore allowable. In addition, claims 49-53 are also allowable at least by virtue of their dependency from claim 48.

### CONCLUSION

Applicants respectfully submit that all of the pending claims are in condition for allowance. Applicants respectfully request reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the claims now pending.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

Attorney Docket No. 1033-LB1011

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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Date

  
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